

U.S. Patent Application No. 10/563,664
Attorney Docket No. 10191/4091
Response to Office Action of January 31, 2008

AMENDMENTS TO THE DRAWINGS:

The attached Replacement sheet for Figure 3 replaces the original sheet containing Figure 3, as suggested. Approval and entry are respectfully requested.

Attachment: one (1) Replacement sheet.

REMARKS

Claims 19 to 28 are added, and therefore claims 10 to 28 are now pending.

In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

The drawings were objected to for failure to show “stop marker 32.” The drawings have been amended herein to obviate the present objection. The drawings were objected to for a reference character illustrated in the drawing is not mentioned in the description. The drawings have been amended herein to obviate the present objection. Approval and entry are respectfully requested, as is withdrawal of the drawing objections.

The disclosure is objected to because of some minor informalities. The specification has been corrected herein as suggested. Accordingly, withdrawal of the objection is respectfully requested.

Claims 10 to 15 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent no. 6,564,122 (the “Huertgen” reference).

To reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic. Accordingly, it is respectfully submitted that any anticipation rejection premised on the inherency doctrine is not sustainable absent the foregoing conditions.

While the rejections may not be agreed with, to facilitate matters, independent claim 10 has been rewritten without prejudice to provide *a device for driving assistance for*

parallel parking a vehicle, including: an output unit for outputting parallel parking driving instructions to a driver, in which the parallel parking driving instructions provide a driver with a driving zone situated between two trajectories which are calculated in such a way that the vehicle can be moved within the driving zone. The parallel parking driving instructions feature is not identically disclosed (nor even suggested) by the reference as applied.

Accordingly, claim 10 as presented is allowable, as are its dependent claims 11 to 15. Withdrawal of the anticipation rejections for claims 10 to 15 is therefore respectfully requested.

Claim 16 is rejected under 35 U.S.C. 103(a) as unpatentable over the combination of the “Huertgen” reference in view of U.S. Patent No. 6,825,880 (the “Asahi” reference).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claim 16 depends from claim 10 and is therefore allowable for the same reasons as claim 10, since the secondary reference does not cure and is not asserted to cure the critical deficiencies of the primary reference.

Claims 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the “Huertgen” reference in view of U.S. Patent no. 6,336,593 (the “Luckscheiter” reference).

Claims 17 and 18 depend from claim 10 and are therefore allowable for the same reasons as claim 10, since the secondary reference does not cure and is not asserted to cure the critical deficiencies of the primary reference.

Withdrawal of the obviousness rejection of claims 16 to 18 is therefore respectfully requested.

New claims 19 to 28 do not add any new matter and are supported by the present application, including the specification. Claims 19 to 27 depend from claim 10, and are therefore

allowable for the same reasons. Additionally, claims 19 to 27 include further features which are allowable because of their added features, which distinguish the references as applied. As to claim 28 (which corresponds to claim 1 of the corresponding European Claim 1, the Huertgen reference discloses no calculated or determined path that leads into a parking space. Even as to any trajectory depending on the steering angle, no such trajectory is disclosed since the maximum range is independent of any calculated or determined driving instructions into a parking space. Accordingly, claim 28 is allowable for these reasons.

Accordingly, claims 10 to 28 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of claims 10 to 28 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

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Respectfully submitted,

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